

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Hearing Date: October 20, 2010
Hearing Time: 2:00 pm

**NOTICE OF MOTION FOR
TERMINATION OF AUTOMATIC
STAY**

In Re:

TANDALA MIMS AKA TANDALA WILLIAMS

Debtor.

Case No.: 10-14030-mg
(Chapter 7)

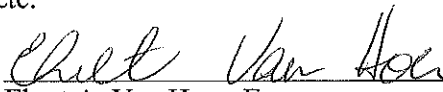
Assigned to:
Hon. MARTIN GLENN
Bankruptcy Judge

Please take notice that Wells Fargo Bank, NA, a secured creditor of Debtor, by the undersigned attorneys, will move this Court on the 20th day of October, 2010, at 2:00 pm or as soon thereafter as counsel can be heard, at the United States Bankruptcy Court, One Bowling Green, 6th Floor, Courtroom # 606, Manhattan, NY 10004-1408 for an Order pursuant to 11 U.S.C. §362(d)(1) and (d)(2) terminating the automatic stay as to movant's interest in real property commonly known as 1167 Grenada Place, Bronx, NY 10466 and for such other relief as the Court may deem proper.

DATED: September 20, 2010
Buffalo, New York

Yours, etc.

By:


Ehret A. Van Horn, Esq.
STEVEN J. BAUM, P.C.
Attorneys for Secured Creditor
Wells Fargo Bank, NA
Office and Post Address:
220 Northpointe Parkway, Suite G
Amherst, NY 14228
Telephone 716-204-2400

TO:

TANDALA MIMS Debtor
1167 Grenada Place
Bronx, NY 10466

UNITED STATES TRUSTEE U.S. Trustee
Office of the U.S. Trustee
33 Whitehall Street
Floor 21
New York, NY 10004

DAVID BRODMAN, ESQ. Attorney for Debtor
Law Office of David Brodman
633 Lydig Avenue
Bronx, NY 10462

SALVATORE LAMONICA, ESQ. Chapter 7 Trustee
LaMonica Herbst & Maniscalco, LLP
3305 Jerusalem Avenue
Wantagh, NY 11793

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

APPLICATION

In Re:

TANDALA MIMS AKA TANDALA WILLIAMS

Debtor.

Case No.: 10-14030-mg
(Chapter 7)

Assigned to:
Hon. MARTIN GLENN
Bankruptcy Judge

Wells Fargo Bank, NA ("Secured Creditor"), by its attorneys Steven J. Baum, P.C., moves to terminate the automatic stay in this case with respect to the real property commonly known as 1167 Grenada Place, Bronx, NY 10466 and states as follows:

1. Secured Creditor is the holder of a mortgage dated the 10th day of May, 2004 in the amount of \$374,037.00 secured by the premises commonly known as 1167 Grenada Place, Bronx, NY 10466 (the "Mortgaged Premises"). A copy of the Note, Mortgage and Assignment is attached hereto as **Exhibit 'A'**.
2. On the 27th day of July, 2010 Debtor Tandala Mims aka Tandala Williams filed a Petition under Chapter 7 of Title 11 U.S.C. §101 et seq with this Court, and an Order for relief was duly entered.
3. The Note and Mortgage provide that the Debtor will be in default if she does not make full monthly payments on each due date. As of the 16th day of September, 2010, the Debtor is due for 6 payments in the amount of \$2,771.96 which represents the payments due the 1st day of April, 2010 through September, 2010 and has not cured said default. A Motion for Relief from Stay Worksheet is attached hereto as **Exhibit 'B'**.

4. Through the 1st day of October, 2010, there is a total indebtedness owed on the Note and Mortgage in the sum of \$355,398.13. Interest on the unpaid principal balance will continue to accrue, and to protect its security in the Mortgaged Premises Secured Creditor may be required to make further advances for property taxes, insurance and related matters. In addition, there is a second mortgage in the amount of \$34,249.00 as set out in the Debtor's Schedule D. There are total mortgages in the amount of \$389,647.13.

5. Based on the Schedule A & D attached hereto as **Exhibit 'C'**, said real property is valued at \$430,000.00. Based on the Secured Creditor's lien amount, additional liens against the Mortgaged Premises and the value of the Mortgaged Premises, there exists minimal equity in the premises.

6. Section 362(d)(1) of the Bankruptcy Code provides in pertinent part that the Court shall grant relief from the stay imposed by Section 362(a) "for cause, including lack of adequate protection of an interest in property..." As set forth above, cause exists to vacate the automatic stay as the Debtor has failed to make monthly mortgage payments to Secured Creditor.

7. Furthermore, Section 362(d)(2) of the Bankruptcy Code provides in pertinent part that the Court shall grant relief from stay imposed by Section 362(a) if "(A) the debtor does not have equity in such property; and (B) such property is not necessary to an effective reorganization." *See, 11 U.S.C. § 362(d)(2)(A)-(B)*. Therefore, the Secured Creditor is entitled to relief pursuant to 11 U.S.C. § 362(d)(2) as there exists minimal equity in the Premises after costs of sale. The Secured Creditor submits that the Mortgaged Premises are not necessary for the effective reorganization of the Debtor as the instant case is a Chapter 7 liquidation case.

8. A Memorandum of Law is submitted herewith.

9. Debtor is entitled to a homestead exemption as the Mortgaged Premises is also her homestead.

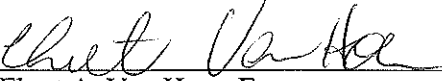
10. A copy of a proposed Order granting the relief sought by Secured Creditor is annexed hereto as **Exhibit 'D'**.

11. No prior application has been made for the relief requested herein.

WHEREFORE, Secured Creditor respectfully requests that an Order be granted terminating the automatic stay immediately as to Secured Creditor's interest in the Mortgaged Premises together with such other, further and different relief as the Court may deem just in this matter.

DATED: September 20, 2010
Buffalo, New York

Yours, etc.

By: 
Ehret A. Van Horn, Esq.
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